

**To the Mayor and Members of the City Council****March 17, 2015****Page 1 of 2****SUBJECT: FINES ASSOCIATED WITH SUBSTANDARD BUILDING VIOLATIONS****Issue:**

At the January 27, 2015 meeting, City Council requested an update on the level of fines associated with code violations, specifically substandard buildings, and recommendations for any changes that may be appropriate to encourage compliance.

Criminal Citation Remedy:

An offense of the Minimum Buildings Standards Code is punishable by a fine not to exceed \$2,000. Each separate occurrence of a violation or each day that a violation continues constitutes a separate offense. The current Municipal Court window fine, including court costs, for maintaining a substandard building is \$564 and for maintaining a substandard apartment building is \$1,064. The ordinance also stipulates minimum fine amounts based on previous convictions and whether the defendant was the residential occupant of the property:

- One previous conviction under this article within three years of the alleged offense date:
 - Upon conviction the defendant shall be fined not less than \$250;
 - If the defendant was not a residential occupant of the property, upon conviction the defendant shall be fined not less than \$1,000.
- Two or more previous convictions under this article within three years of the alleged offense date:
 - Upon conviction the defendant shall be fined not less than \$500;
 - If the defendant was not a residential occupant of the property, upon conviction the defendant shall be fined not less than \$2,000.

Administrative and Civil Remedy:

Owners, lienholders and mortgagees that fail to comply with the Minimum Building Standards Code may be scheduled for a hearing before the Building Standards Commission. The Commission can declare a building "substandard" or "substandard and hazardous". They can further order the building be repaired or demolished (if hazardous) within a specific timeframe. If the violations are not abated, the Commission may assess a civil penalty in an amount not to exceed \$1,000 per day or if the owner shows that the property is the owner's lawful homestead, an amount not to exceed \$10 per day. For "substandard and hazardous" buildings, the Commission may authorize the City to demolish if not abated within the specified timeframe.

Enforcement History:

Investors and financially capable owners typically respond to criminal citations. Properties in an estate typically respond to the Building Standards Commission as long as at least one heir is

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willing to take responsibility for the property. The difficulty is when the property is owner occupied and the owner wants to repair the building but does not have the financial means to do so. We refer these "would but can't" owners to the many assistance programs available. Depending on the severity, sometimes the repairs exceed the allowable amount offered by the assistance programs. Citations and Building Standards Commission orders usually do not resolve the substandard conditions since the owners do not have the funds to pay for the repairs, fines or civil penalties. Absentee owners are another difficulty. These properties are usually scheduled for tax foreclosure.

Recommendation:

Staff's recommendation is to keep the current fine schedule. The Minimum Building Standards Code is one of the few ordinances that specifically sets minimum fine amounts based on previous convictions and occupancy. Increasing fine amounts does not encourage compliance for the "would but can't" owners or the absentee owners. There is also the civil remedy of taking properties before the Building Standards Commission for non-compliance.

David Cooke
City Manager